Office of the Conflict of Interest Commissioner

Paul D. K. Fraser, Q.C.

Annual Report 2011

Province of British Columbia

BRITISH COLUMBIA

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Commissioner

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BRITISH
COLUMBIA

March, 2012

The Honourable Bill Barisoff, MLA
Speaker of the Legislative Assembly
of British Columbia
Room 207, Parliament Buildings
Victoria, British Columbia V8V 1X4

Dear Mr. Speaker,

It is an honour to present the Annual Report of the Office of the Conflict of Interest Commissioner for 2011.

This Report is submitted pursuant to section 15 of the *Members' Conflict of Interest Act*, Chapter 287 of the Revised Statutes of British Columbia.

Sincerely,

Paul D. K. Fraser, Q.C.
Conflict of Interest Commissioner

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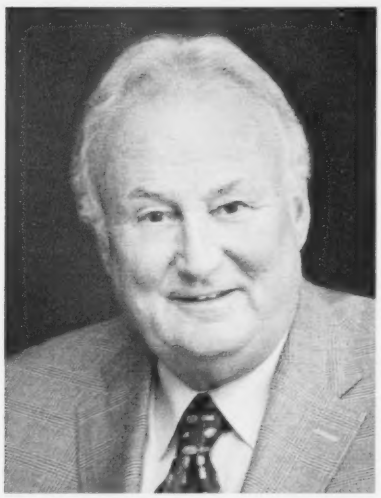
COMMISSIONER'S MESSAGE



PAUL D. K. FRASER, Q.C.
Conflict of Interest Commissioner

The work that this Office does is part of the covenant of integrity that Members of the Legislature have with the citizens of British Columbia. The work is important as a democratic safeguard to ensure that private interest is not allowed to trump public duty. The *Members' Conflict of Interest Act (the "Act")* requires public disclosure by Members and thereby guarantees transparency in the public interest. Careful supervision of the disclosure process proves the adage that "sunlight is always the best disinfectant."

Our work is, therefore, both a solemn responsibility and a privilege. It is work that the Office has done for the last 20 years. British Columbia was among the first of the provinces in Canada to enact an independent Conflict of Interest regime. Since then, the Legislatures of all the Provinces and Territories as well as the Parliament of Canada have followed suit. We have all learned from this shared experience and the public interest has been well-served. We look forward to 2012, with the expectation that the *Act* will (for the first time since 1999) be comprehensively reviewed by the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills.

Citizens know that information is the currency of democracy. I believe you can be confident that the process we administer to gather that information and to disclose it publicly is working well. I am pleased to report that we have good cooperation from Members who consult our Office for confidential preventative advice. We are keeping our administrative costs under control and innovating with technology in order to add value to the services we deliver to the public and the Members. The details of that progress are described in this report.

INTRODUCTION

Holding elected office is a public trust. Members of the Legislative Assembly are expected to act in the public interest at all times, and must not use their official position for personal gain or advantage. The rules governing conflict of interest for Members are set out in the *Act* and ensure that those who are elected to public office are held to high standards of conduct.

A "conflict of interest" arises when a Member's duty to act in the public interest is or may be affected by his or her private interests. In most cases, a "private interest" will be pecuniary in nature. However, a private interest can also be non-pecuniary, providing it confers a real and tangible benefit on the Member.

Members must avoid both actual and apparent conflicts of interest, and must arrange their private affairs to prevent such conflicts from arising. Members are expected to resolve any conflicts which do arise promptly and transparently.

In determining whether an apparent conflict of interest exists, the Commissioner must consider not only whether the Member is in receipt of a benefit amounting to a private interest, but also whether in all of the circumstances a reasonably well informed person could perceive that this private interest could affect the exercise or performance of an official power, duty or function.

The *Act* includes the following prohibitions:

A general prohibition against **conflicts of interest**

> *A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest. (s. 3)*

A prohibition against using **insider information**

> *A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest. (s. 4)*

A prohibition against using one's **influence** inappropriately

> *A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest. (s. 5)*

A prohibition against accepting **extra benefits**

> *A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office. (s. 7(1))*

The Conflict of Interest Commissioner is an independent, non-partisan Officer of the Legislative Assembly who is responsible for independently and impartially interpreting and administering the *Act*.

OVERVIEW - WHAT WE DO AND THE COMMISSIONER'S ROLE

Since its inception, the focus of the Office has been on education and prevention. This pro-active approach has served both Members and the public well, as confidence in elected officials and the political system as a whole is increased when conflicts of interest can be identified and avoided.

British Columbia's first Conflict of Interest Commissioner, the Honourable E. N. (Ted) Hughes, Q.C., was appointed Commissioner on May 23, 1991. In his first Annual Report (1991-1992), Mr. Hughes included a comment from a speech that he gave in April, 1992 entitled "A Most Honourable Profession". He said:

> *"In a sense the creation of conflict of interest or ethics offices or commissions can be compared to preventative medicine, as distinct from treating disease after its outbreak."*

As we look back on the past twenty years of the Office's operations, Mr. Hughes' words have lost none of their relevance. Successive Commissioners and Acting Commissioners have all maintained a focus on the "preventative medicine" prescribed by Mr. Hughes.

Arguably, therefore, the Commissioner's most important function is an **advisory role**. It is imperative that Members feel comfortable approaching the Commissioner with questions before taking a course of action that could lead to suggestions of impropriety. Members may request that the Commissioner provide a formal written opinion on a conflict of interest matter, and are encouraged to do so if in any doubt about their obligations under the *Act*. This advice remains confidential unless the Member decides to release it. The Commissioner is also available to provide confidential oral advice to Members. If the Commissioner determines that a Member has or may have a conflict of interest, he can make recommendations and specify a timeframe for compliance.

As part of the disclosure process, the Commissioner meets one-on-one with each Member to confirm that Members have arranged their private affairs in accordance with the *Act*. This **annual meeting** provides another opportunity for the Commissioner to identify and resolve any potential conflicts of interest. Regular contact with Members also helps develop a positive working relationship between the Commissioner and the Members and serves as a reminder that the Commissioner is always available for individual consultation.

Additionally, from time to time, the Commissioner issues **interpretive memos** and other publications which provide guidance on specific conflict of interest issues. Topics have included writing letters of reference, accepting gifts, post-employment issues, and accepting

complimentary tickets and memberships. Such publications are sent to all Members, as well as being posted on the Office's website, www.coibc.ca.

Disclosure Process

Each year, Members must complete a confidential disclosure form which contains a statement of the nature of the assets, liabilities and financial interests belonging to the Member and his or her spouse. Separate disclosure forms are required if the Member has any minor children, and if the Member, his or her spouse or minor child has a controlled private corporation. In an election year, disclosure forms must be distributed, completed by Members and collected by our Office within 60 days of Members being elected.

A key difference between the BC legislation and many other jurisdictions is that under BC's legislation, disclosure statements are qualitative rather than quantitative. That is, Members must disclose the *nature* of the assets, liabilities, and financial interests, not the value nor the amount or the worth of those interests.

The annual disclosure process occurs between August and December. The Commissioner advises Members of the deadline to submit their forms, which in 2011 was in early October. Members' completed confidential disclosure forms remain securely and exclusively with our Office.

Once a Member's confidential disclosure forms have been received by our Office, a meeting between the Member and the Commissioner is arranged. At the meeting, the Commissioner reviews the Member's disclosure statements with the Member to ensure accuracy and to discuss any questions or concerns. In 2011, disclosure meetings were held in Victoria, Vancouver and Surrey in October and November.

Once the contents of the confidential disclosure statement have been finalized, a **Public Disclosure Statement** (PDS) is prepared. The PDS contains most, but not all, of the information contained in the Member's confidential disclosure statement, as well as a statement of any gifts or benefits that have been disclosed to the Commissioner since the Member's last filing. Certain information is excluded from the PDS, such as the Member's residential address and other personal information.

Once all the Members have reviewed and approved their PDS, they are filed with the Clerk of the House where they are available for public inspection. Members' 2011 PDSs were filed with the Clerk on December 16, 2011.

Electronic Disclosure

The Conflict of Interest Office is embarking on an exciting project which will replace the labour intensive, manual processing of Members' disclosure statements with an online system. This technology will reduce much of the Office's administrative overhead, while also being less time-consuming and onerous for Members. Members will be able not only to access and save their personal forms online, but also submit their forms and upload supporting documentation electronically.

Moving from the existing paper-based, manual process to an automated, electronic process will greatly increase administrative efficiency and make it simpler for Members to comply with their disclosure requirements.

Ongoing Reporting Obligations

Material Changes

After Members have filed their annual confidential disclosure statements, they have an ongoing obligation to report any material changes to their financial interests within 30 days of the change occurring.

A **"material change"** is defined as an acquisition or disposition, whether in whole or in part, occurring after the Member has filed a disclosure statement, of any asset, liability, financial interest or source of income by the Member, his or her spouse or minor children, or a private corporation controlled by any of them, if the change or event would reasonably be expected to have a significant effect on the information previously disclosed. For example, Members should file a material change form with the Commissioner after acquiring a significant asset, making an investment, taking out a loan, paying off a loan, buying or selling shares or acquiring a new mortgage.

After reviewing the Member's material change form, our Office prepares a Notice of Material Change which is then filed with the Clerk of the Legislative Assembly, where it is attached to the Member's most recent PDS. A copy of the Notice is also sent to the Member.

Gifts and Personal Benefits

Members are prohibited from accepting gifts or personal benefits in connection with the performance of their official duties. However, there is an exception for gifts or personal benefits received "as an incident of protocol or social obligations". In most cases this means a token expression of appreciation or complimentary hospitality in the context of some official interaction.

Before accepting a gift, Members must consider whether the donor is someone whose interests could be affected by a decision the Member may be called upon to make, and whether accepting the gift would – or would appear – to place the Member under an obligation to the donor. Generally, if the donor has any official dealings with the government, the gift should not be accepted.

Members are required to disclose and provide details of any gifts or personal benefits they have received, if the value of the gift exceeds $250 or if the combined value of multiple gifts from the same donor exceeds $250 in a twelve month period. A summary of gifts received is included in the Member's PDS.

In 2010, our Office published a booklet "Accepting and Disclosing Gifts: A Guide for Members", which is available on our website. The Guide provides general information to assist Members to understand their obligations, but Members are still encouraged to seek the Commissioner's advice if in any doubt about the propriety of accepting a gift or personal benefit.

Confidential Opinions

Under s. 18 of the *Act*, Members may request that the Commissioner provide an opinion about any matter respecting the Member's obligations. Some requests are informal and do not proceed beyond the initial phone call or email to the Commissioner. Others are more substantial and involve background research and a written response.

A Member who has requested a confidential opinion or recommendation under s. 18 may choose to make the opinion public. In 2011, the Commissioner released one such opinion, provided to Premier Christy Clark:

> ***Complimentary Stanley Cup Tickets – Opinion June 14, 2011***
>
> *The Premier asked the Commissioner to confirm that it was appropriate for her to accept complimentary tickets to the Stanley Cup finals from the Vancouver Canucks. The Commissioner noted that such high-profile sporting events generate competitive pride and loyalty in city, province and country and her attendance as the official representative of the Government of British Columbia was expected and appropriate.*

The full opinion is available on our website.

Publicly Released Opinions

Under s. 19 of the *Act*, the Commissioner may provide an opinion about Members' compliance with the *Act* or section 25 of the *Constitution Act* in response to a request from a member of the public, a Member of the Legislative Assembly or Executive Council, or the Legislative Assembly.

Typically when concerns about a Member's compliance are brought to his attention, the Commissioner first gathers information informally to determine if there are reasonable and probable grounds to support the allegations. The Commissioner then determines whether to proceed to the formal Inquiry stage or dismiss the allegations as unwarranted.

In 2011, there were no requests from Members, the Executive Council or the Legislative Assembly respecting Members' compliance. The Commissioner released one opinion in response to allegations from a member of the public involving the Premier, released May 10, 2011. The Commissioner considered whether seeking public office is a "private interest" under the *Act*:

Is Seeking Office a "Private Interest"? – Opinion May 10, 2011

A member of the public asked the Commissioner to provide an opinion on whether Premier Christy Clark had breached the *Members' Conflict of Interest Act* by appearing in and using government announcements while campaigning in a by-election to win her seat in Vancouver-Point Grey. The individual believed that government resources might have been used to "facilitate" the Premier's by-election campaign, including her attendance at public and media events.

Although the Premier was not a Member of the Legislative Assembly at the time, the Commissioner had jurisdiction to provide an opinion on the matter as Premier Clark had been sworn in as a member of the Executive Council (i.e. Cabinet).

The threshold question the Commissioner considered was whether seeking to be elected as an MLA amounts to a person improperly furthering a "private interest". He concluded that it would be contrary to the spirit, intent and letter of the *Act* to consider efforts to gain public office as furthering a "private interest". Moreover, the material provided by the individual did not provide evidence of improper use of government resources in the Premier's by-election campaign.

The Commissioner found that there were no reasonable and probable grounds to believe that the *Act* had been contravened.

The full opinion is available on our website.

Other Requests

We receive many requests for general information from the public. A significant portion of these requests relate to matters beyond the jurisdiction conferred to the Commissioner under the *Act*, in which case we do our best to refer individuals to the appropriate agency.

Inquiries

A formal Inquiry is a slow, burdensome and costly process only to be embarked upon when the public interest demands it. In the 20 years that the Office has been in existence, very few formal Inquiries have been conducted.

If a formal Inquiry is held the Commissioner reports to the House and, in an appropriate case, makes recommendations on what penalty might apply. Possible penalties include a reprimand, suspension, fine of up to $5,000, or a declaration that the Member's seat be declared vacant until an election is held in the Member's electoral district. While the Commissioner may recommend penalties against a Member, it is up to the Legislative Assembly to accept or reject the recommendation.

No formal Inquiries were conducted in 2011.

Meeting with Colleagues

Our Office is part of the **Canadian Conflict of Interest Network** (CCOIN), which includes the federal Conflict of Interest Commissioner, the Senate Ethics Officer, and the Commissioners from all Canadian provinces and territories. Business meetings of the group are held annually in September, and are an opportunity to exchange information on issues of common interest and to review legislative and regulatory differences and trends.

Our Office was honoured to host the 2011 CCOIN meeting in Victoria from September 8-10. The meeting was a great success, with the thirteen Commissioners and their staff from across the country who attended expressing their satisfaction not only with the program, materials and smooth organization, but with the gloriously sunny weather. The group was especially pleased to welcome the newly appointed Ethics Commissioner from Quebec, Mr. Jacques Saint-Laurent, and learn about some of the unique features of Quebec's Code of Ethics and Conduct of the Members of the National Assembly. Discussion topics included post-employment issues, legislative privilege, gifts and best practices.

The opportunity for the Commissioner to engage with his counterparts from around the country is invaluable, and we look forward to the next CCOIN meeting which will be held in New Brunswick in September 2012.

The Office is also a member of the **Council on Governmental Ethics Law** (COGEL). The Commissioner attended the 2011 COGEL conference in December, 2011, which

was held in Nashville, Tennessee. The conference is an opportunity for professionals from across North America working in government ethics, elections, disclosure, enforcement, and other types of regulatory agencies to meet and interact with their peers. These contacts can prove invaluable, particularly as advances in technology and ongoing government reform efforts lead to rapid changes in how COGEL members accomplish the goals of their respective agencies. This year's conference contained a number of valuable interactive sessions that facilitated discussion of comparative disclosure processes and record keeping.

Communications, Education and Outreach

The Commissioner participated in a variety of communication, education and outreach activities throughout the year, including the following:

- On February 17, 2011 the Commissioner met with Legislative Interns who had been selected for the program that has been sponsored for more than 30 years by the Legislative Assembly. The meeting took place at the beginning of the six-month Intern program as part of the orientation.
- On March 14, 2011 the Commissioner spoke to 3rd year Political Science students at Simon Fraser University on the topic of conflict of interest and public sector ethics.
- On August 25, 2011 our Office organized a seminar for Ministerial Assistants, Executive Assistants and Administrative Coordinators to discuss Ministers' compliance responsibilities under the *Members' Conflict of Interest Act*. The Commissioner provided information and answered questions about seeking and receiving COI advice, accepting gifts, sponsored travel, and disclosure.

After an election, the Commissioner meets with each Caucus separately and with any independent Members to provide an overview of the *Act* and the role of the Commissioner. This is especially helpful for Members elected to the Legislative Assembly for the first time.

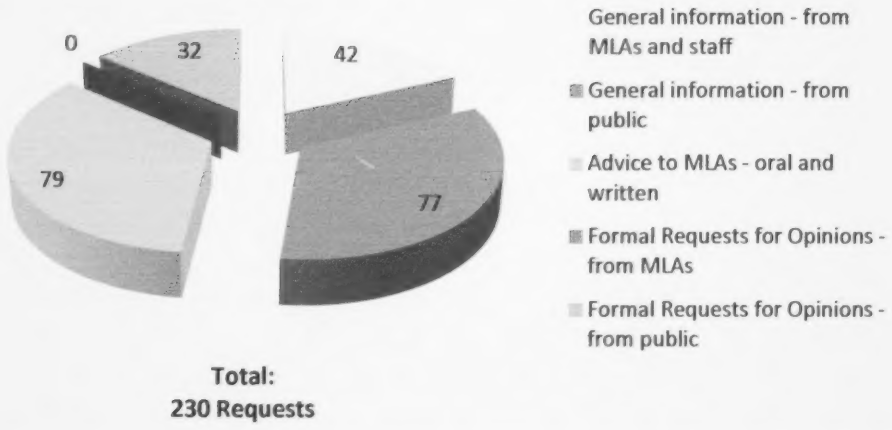
In recent years the Office has made several improvements and updates to our website, www.coibc.ca. In addition to providing general information about the Office and the role of the Commissioner, Members' forms are accessible as are all previous annual reports, ethics bulletins, and publicly released opinions.

STATISTICS

In 2011, our Office responded to a total of **230** requests from MLAs, their staff and the public.

Requests Received January 1 – December 31, 2011	
General Information	
From MLAs and their staff	42
From public (jurisdictional)	43
From public (non-jurisdictional)	34
TOTAL	**119**
Advice – Oral and Written (s. 18)	
To MLAs	**79**
Formal Requests for Opinions (s. 19)	
From MLAs	0
From public (jurisdictional)	16
From public (non-jurisdictional)	16
TOTAL	**32**
TOTAL	**230**

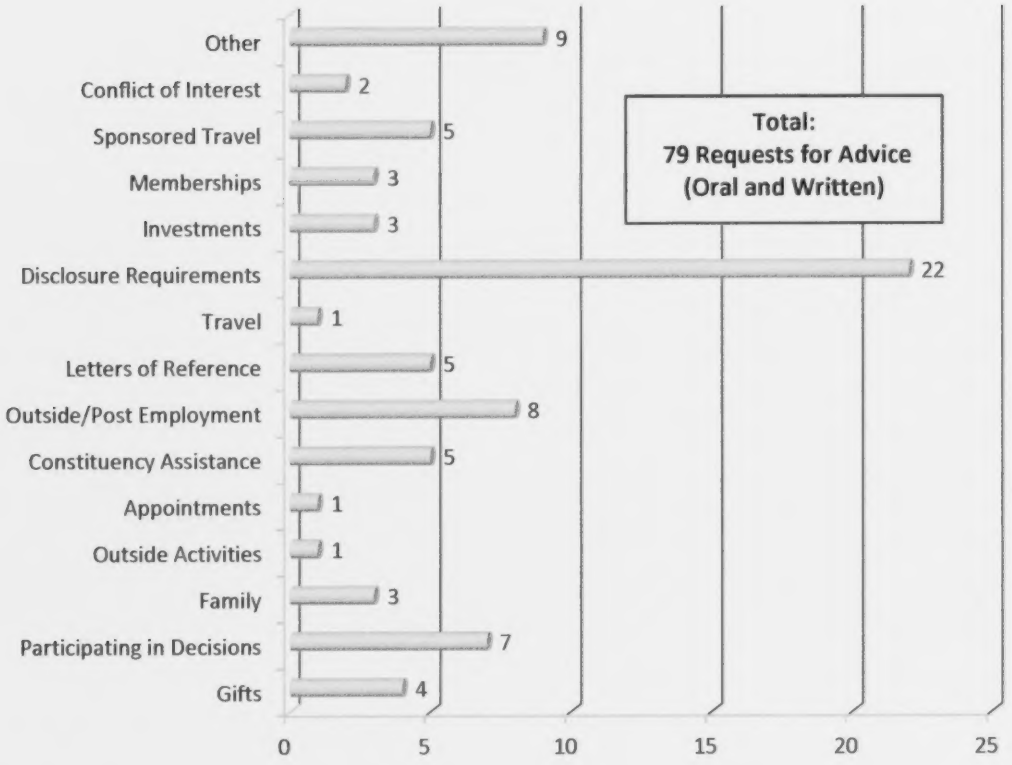
Requests Received - 2011



Total:
230 Requests

Time to Respond to Requests		
	time to respond (median)	time to respond (average)
General Information	Same day	Same day
Advice – Oral and Written (s. 18)	1 business day	3 business days
Formal Requests for Opinions (s. 19)	2 business days	3 business days

Requests for Advice from MLAs by Topic



Revisiting the Act

British Columbia was one of the first provinces to enact comprehensive conflict of interest legislation in Canada. The *Members' Conflict of Interest Act* was enacted in 1990 and has remained virtually unchanged since that time. Over the past twenty years, conflict of interest issues have continued to evolve and a comprehensive review of the *Act* is long overdue.

In 2012, the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills will review the *Act* to ensure that British Columbia's legislation remains relevant to today's needs and continues to meet British Columbians' expectations for high ethical standards in government. We look forward to participating in discussions with the Committee and offering our suggestions for proposed amendments to the *Act.*

The Commissioner has identified several areas for possible reform, including the following:

1. Jurisdiction Over Other Public Office Holders

British Columbia's legislation applies exclusively to Members of the Legislative Assembly. However, other senior government officials are also privy to confidential information and may potentially exert influence over policy decisions and legislative initiatives. Accordingly, political staff such as ministerial assistants, chief of staff in the Office of the Premier, deputy ministers and CEO's of Crown Corporations and/or Agencies should perhaps also be subject to the *Act.* This would be consistent with many other Canadian jurisdictions, where the Commissioner has jurisdiction over a broader range of "public office holders".

2. Post-Employment Matters

S. 8 of the current *Act* addresses various aspects of the relationship between government and former Members of Executive Council and former Parliamentary Secretaries ("Ex-Office Holders") relating to employment, contractual relationships, or the extension of benefits.

For 24 months after leaving office (the "cooling off period"), Ex-Office Holders must not accept a contract or benefit from government or make representations with respect to such a contract or benefit on their own behalf. However this restriction does not apply to "contracts or benefits in respect of further duties in the service of the government". Ex-Office Holders are also prohibited from making representations with respect to a contract or

benefit from the government on behalf of another person during the cooling off period. There are no restrictions on Ex-Office Holders pursuing or accepting employment or contracts outside of government. There is also no monitoring provision currently in the *Act.*

As things now stand, the Commissioner does not have jurisdiction if an Ex-Office Holder contravenes s. 8. The only recourse is that he or she can be charged in provincial court. The wording of s. 8 also puts the onus on the Cabinet, a member of the Cabinet or an employee of a ministry to ensure compliance, rather than sharing that responsibility with the Ex-Office Holder.

Post-employment rules should perhaps apply to a wider range of public office holders and the rules might clearly define what the responsibilities and obligations are upon leaving public office. A proactive rather than reactive model of monitoring compliance with post-employment rules, similar to the system in place in the United Kingdom, could be implemented. For example, before commencing the proposed employment, public office holders should seek advice from the Commissioner on the compatibility of the position with their post-employment obligations, and be obliged to abide by that advice. The Commissioner should be permitted to disclose publicly the advice given, if the employment in question is taken up.

Key elements of such a system would include a requirement that public office holders disclose to the Commissioner the nature of any post-office employment prior to taking up that employment; mandatory disclosure of post-employment activities, including the identities of entities with whom a public office holder is seeking, negotiating, or has been offered employment; and making failure to disclose an offence.

3. Applicability of FOIPPA

Our Office has long been concerned about the ambiguous position of the Conflict of Interest Commissioner under the *Freedom of Information and Protection of Privacy Act (FOIPPA).* In one section of FOIPPA, the Commissioner is exempt from its operation as an Officer of the Legislative Assembly. In another section, the Commissioner is listed as a public body subject to FOIPPA and the jurisdiction of the Privacy Commissioner. As an Officer of the Legislative Assembly, it is the Commissioner's position that his documents are clothed with an absolute legislative privilege and as such are not subject to demands or requests under the Information and Privacy Commissioner. The *Act* [and FOIPPA] should be amended to remove any ambiguity.

4. Retention and Destruction of Documents

There is currently no provision in the *Act* governing the retention and destruction of records held by the Commissioner's office. Currently the policy of the Office is to retain Members' Confidential Disclosure Statements for a period of five years following a Member's departure from office. This policy should be formalized in the legislation.

5. Regular Review of the Act

To ensure that British Columbia's conflict of interest regime remains current and relevant, there should be a provision requiring the mandatory review of the *Act* every five to seven years.

CHANGES TO THE ACT

On Nov. 23, 2011, the *Family Law Act* was passed in the BC Legislature, replacing the *Family Relations Act.* The *Family Law Act* received Royal Assent on Nov. 24, 2011. One of the changes that came into effect on Royal Assent was to change a number of BC acts, including the *Members' Conflict of Interest Act*, to update the terms used when discussing spouses.

As a result, the definition of "spouse" in the *Act,* which had included references to "husband" and "wife", was replaced with a gender-neutral definition which recognizes same-sex marriages. The definition now reads:

> **"spouse"** means a person who is married to another person who is living with a member in a marriage-like relationship, but does not include a person who is separated and living apart from a member and who
>
> (a) has entered into a written agreement under which they have agreed to live separate and apart, or
> (b) is subject to an order of the court recognizing the separation.

A copy of the *Act* is annexed to this Report as Appendix A.

SUMMARY OF BUDGET AND FINANCIAL INFORMATION

The Select Standing Committee on Finance and Government Services ("the Committee") has the responsibility for considering and making recommendations to the Legislative Assembly on the budgets of this Office.

For fiscal year 2010/11, we received a budget appropriation of $440,000. The actual total cost of our operations for the year was $397,000, $42,000 under budget. The unused appropriation was due to the Commissioner's salary and travel expenses being paid by the Office of the Information and Privacy Commissioner during the time he was Acting Commissioner.

In 2011/12, the appropriation we received from the Legislative Assembly was $480,000, a 9% increase in order to effectively resource the Office and plan for staff succession.

Our Budget Proposal for 2012/13 – 2014/15 sought an annual budget of $480,000. No increase was requested in consideration of the current challenging economic times and as a result of new efficiencies and cost savings in the Office. Our Proposal was presented to the Committee on November 23, 2011. The Committee, in its Report dated December, 2011 recommended an operating budget of $480,000 in each of the next three fiscal years.

Our Budget Proposal and the Committee's recommendations are annexed to this Report as Appendix B.

ACKNOWLEDGEMENTS AND APPRECIATION

During the reporting period, there has been good cooperation from Members and their assistants in arranging disclosure meetings and providing the Office with the information and filings required by the *Act*. That cooperation has enhanced our productivity and response time and is much appreciated.

We also appreciate the assistance and support that our Office has received from the Speaker and the Clerk of the House and their respective offices, as well as to the Caucus Chairs and their assistants. Additionally, the Ministry of Finance (Corporate Financial Services and Facilities Branch) has provided financial services assistance to our Office since 2003, for which we are grateful.

On July 4, 2011, Legislative Assembly Computer Systems began providing technical support to our Office. Many thanks to the Computer Systems staff for their skill, professionalism and collegiality. We look forward to working together with them on our web-based disclosure project in 2012.

We also want to recognize the good work of our Office colleagues:

Daphne Thompson
Ms. Thompson joined the Office in 1994 and has been an Executive Assistant to all of the Commissioners to date. In 2009, she was appointed as the Executive Coordinator in the Office and in 2011, received a long-service award acknowledging her 25 year career as a public servant. Her work is greatly valued and appreciated.

Alyne Mochan
Ms. Mochan is a lawyer who joined our Office in July, 2009 and was appointed as our Legal Officer in 2011. She has been instrumental in preparing our Office publications and conducting necessary research.

Corey Ulmer
Ms. Ulmer joined our Office in January, 2011 as a part-time Administrative Assistant. Her technical knowledge and superior organizational skills have helped us keep on top of a growing workload.

We all look forward to our continuing work in the service of the public and the Legislative Assembly of British Columbia.

APPENDICES

A: MEMBERS' CONFLICT OF INTEREST ACT

B: BUDGET PROPOSAL AND COMMITTEE REVIEW/RECOMMENDATION – FISCAL 2012/13 - 2014/15

MEMBERS' CONFLICT OF INTEREST ACT
[RSBC 1996] CHAPTER 287

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Definitions

1 In this Act:

"child" includes a person to whom a member has demonstrated a settled intention to treat as a child of his or her family;

"commissioner" means the person appointed under section 14;

"member" means a member of the Legislative Assembly or of the Executive Council, or both;

"private corporation" means a corporation, all of whose issued and outstanding securities are subject to restrictions on transfer and are beneficially owned directly or indirectly by not more than 50 persons;

"private interest" does not include an interest arising from the exercise of an official power or the performance of an official duty or function that

(a) applies to the general public,

(b) affects a member as one of a broad class of electors, or

(c) concerns the remuneration and benefits of a member or an officer or employee of the Legislative Assembly;

"spouse" means a person who is married to a member or a person who is living with a member in a marriage-like relationship, but does not include a person who is separated and living apart from a member and who

(a) has entered into a written agreement under which they have agreed to live apart, or

(b) is subject to an order of the court recognizing the separation.

Conflict of interest

2 (1) For the purposes of this Act, a member has a conflict of interest when the member exercises an official power or performs an official duty or function in the execution of his or her office and at the same time knows that in the performance of the duty or function or in the exercise of the power there is the opportunity to further his or her private interest.

(2) For the purposes of this Act, a member has an apparent conflict of interest if there is a reasonable perception, which a reasonably well informed person could properly have, that the member's ability to exercise an official power or perform an official duty or function must have been affected by his or her private interest.

Conflict of interest prohibition

3 A member must not exercise an official power or perform an official duty or function if the member has a conflict of interest or an apparent conflict of interest.

Insider information

4 A member must not use information that is gained in the execution of his or her office and is not available to the general public to further or seek to further the member's private interest.

Influence

5 A member must not use his or her office to seek to influence a decision, to be made by another person, to further the member's private interest.

Activities on behalf of constituents

6 This Act does not prohibit the activities in which members normally engage on behalf of constituents.

Accepting extra benefits

7 (1) A member must not accept a fee, gift or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of his or her duties of office.

(2) Subsection (1) does not apply to a gift or personal benefit that is received as an incident of the protocol or social obligations that normally accompany the responsibilities of office.

(3) If a gift or personal benefit referred to in subsection (2) exceeds $250 in value, or if the total value received directly or indirectly from one source in any 12 month period exceeds $250, the member must immediately file with the commissioner a disclosure statement, in the form prescribed by the regulations, indicating

(a) the nature of the gift or benefit,

(b) its source, and

(c) the circumstances under which it was given and accepted.

Former members of Executive Council and former parliamentary secretaries

8 (1) The Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission, must not knowingly

(a) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary, until 24 months have expired after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office,

(b) award or approve a contract with, or grant a benefit to, a former member of the Executive Council or former parliamentary secretary who has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit, or

(c) award or approve a contract with, or grant a benefit to, a person on whose behalf a former member of the Executive Council or former parliamentary secretary has, during the 24 months after the date when the former member of the Executive Council or former parliamentary secretary ceased to hold office, made representations in respect of the contract or benefit.

(2) Subsection (1) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.

(3) Subsection (1) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(4) A former member of the Executive Council or former parliamentary secretary must not, unless 24 months have expired after the date when he or she ceased to hold office,

(a) accept a contract or benefit that is awarded, approved or granted by the Executive Council, a member of the Executive Council or an employee of a ministry other than an employee of an agency, board or commission,

(b) make representations on his or her own behalf with respect to such a contract or benefit, and

(c) make representations on another person's behalf with respect to such a contract or benefit.

(5) Subsection (4) (a) and (b) does not apply to contracts or benefits in respect of further duties in the service of the government.

(6) Subsection (4) does not apply if the conditions on which the contract or benefit is awarded, approved or granted are the same for all persons similarly entitled.

(7) A former member of the Executive Council or a former parliamentary secretary must not make representations to the government in relation to any specific ongoing transaction or negotiation to which the government is a party and in which the former member of the Executive Council or former parliamentary secretary was directly involved if the representation would result in the conferring of a benefit not for general application.

(8) A person who contravenes subsection (4) or (7) commits an offence and is liable, on conviction, to a fine of not more than $5 000.

Carrying on business

9 (1) A member of the Executive Council must not

(a) engage in employment or in the practice of a profession,

(b) carry on a business, or

(c) hold an office or directorship other than in a social club, religious organization or political party

if any of these activities are likely to conflict with the member's public duties.

(2) A person who becomes a member of the Executive Council must comply with subsection (1) within 60 days of being appointed.

(3) The commissioner may extend the period referred to in subsection (2) by giving the member a written notice to that effect, and may impose on the extension conditions that the commissioner considers just.

(4) If a member of the Executive Council complies with subsection (1) (b) by entrusting his or her business to one or more trustees,

(a) the provisions of the trust must be approved by the commissioner,

(b) the trustees must be persons who are at arm's length with the member and approved by the commissioner,

(c) the trustees must not consult with the member with respect to managing the trust property, and

(d) within 60 days after the formation of the trust, and after that annually, the trustees must provide the commissioner with a confidential report, in a form acceptable to the commissioner, disclosing the assets, liabilities and financial interests contained in the trust.

(5) For the purposes of this section, the management of routine personal financial interests does not constitute carrying on a business.

Procedure on conflict of interest

10 (1) A member who has reasonable grounds to believe that he or she has a conflict of interest in a matter that is before the Legislative Assembly or the Executive Council, or a committee of either of them, must, if present at a meeting considering the matter,

(a) disclose the general nature of the conflict of interest, and

(b) withdraw from the meeting without voting or participating in the consideration of the matter.

(2) If a member has complied with subsection (1), the Clerk of the Legislative Assembly or secretary of the meeting must record

(a) the disclosure,

(b) the general nature of the conflict of interest disclosed, and

(c) the withdrawal of the member from the meeting.

(3) The Clerk of the Legislative Assembly or secretary of the meeting must file the information recorded under subsection (2) with the commissioner,

(a) in the case of a meeting of the Legislative Assembly or a committee of the Legislative Assembly, as soon as practicable, and

(b) in the case of a meeting of the Executive Council or a committee of the Executive Council, as soon as practicable after the Executive Council's decision on the matter which has been the subject of the disclosure is made public.

(4) The commissioner must keep all information filed under subsection (3) in a central record kept for that purpose and must

(a) make the central record available for inspection by any person without charge during normal business hours, and

(b) on request by any person provide a copy of the record or portion of it on payment of a reasonable copying charge.

Performance of responsibilities by minister

11 (1) If, during the exercise of any official power or the performance of any official duty or function by a member of the Executive Council, a matter arises with respect to which the member has a conflict of interest or apparent conflict of interest, the member must

(a) refrain at all times from attempting to influence the matter, and

(b) at any subsequent meeting of the Executive Council or a committee of the Executive Council at which the matter is considered, disclose the general nature of the private interest and withdraw from the meeting without voting or participating in the discussion.

(2) The Lieutenant Governor in Council may appoint a member of the Executive Council to act in the place of a member referred to in subsection (1) for any matter with respect to which the member referred to in subsection (1) has a conflict of interest or apparent conflict of interest.

Voidability of transaction or procedure

12 The failure of any member to comply with section 10 does not of itself invalidate

(a) any contract or other financial transaction, or

(b) any procedure undertaken by the government with respect to a contract or other financial transaction

to which the failure to comply with section 10 relates, but the transaction or procedure is voidable at the instance of the government before the expiration of 2 years from the date of the decision authorizing the transaction, except as against any person who or organization that acted in good faith and without actual notice of the failure to comply with section 10.

Application for restitution

13 Despite anything in this Act, if any person, whether or not the person is or was a member, has realized financial gain in any transaction to which a violation of this Act relates, any other person affected by the financial gain, including the government or a government agency, may apply to the Supreme Court for an order of restitution against the person who has realized the financial gain.

Commissioner

14 (1) There must be appointed a commissioner who is an officer of the Legislative Assembly.

(2) On the motion of the Premier in the Legislative Assembly and on the recommendation of 2/3 of the members present, the Lieutenant Governor in Council must appoint the person so recommended to the office of commissioner.

(3) The commissioner holds office for a term of 5 years and may be reappointed for a further term or terms.

(4) The commissioner may be removed or suspended before the end of the term of office by the Lieutenant Governor in Council for cause on the recommendation of the Legislative Assembly.

(5) The commissioner must be paid compensation as may be set by the Lieutenant Governor in Council.

(6) If

(a) the commissioner is removed or suspended or the office of the commissioner becomes vacant when the Legislature is sitting but no recommendation under this Act is made by the Legislative Assembly before the end of that session, or

(b) the commissioner is suspended or the office of the commissioner is or becomes vacant when the Legislature is not sitting,

the Lieutenant Governor in Council may appoint an acting commissioner.

(7) The appointment of an acting commissioner under this section terminates

(a) on the appointment of a new commissioner under subsection (2),

(b) at the end of the period of suspension of the commissioner, or

(c) immediately after the expiry of 20 sitting days after the day on which he or she was appointed,

whichever the case may be and whichever occurs first.

(8) The commissioner may employ or retain persons that the commissioner considers necessary and may

(a) specify their duties and responsibilities, and

(b) establish their remuneration and other terms and conditions of employment, or retainer.

(9) The *Labour Relations Code* and the *Public Service Labour Relations Act* do not apply to a person employed or retained under subsection (8).

(10) [Repealed 1999-44-85.]

Annual report

15 The commissioner must report annually on the affairs of his or her office to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly.

Disclosure statement

16 (1) Every member must, within 60 days of being elected, and after that annually, file with the commissioner a confidential disclosure statement in the form prescribed by the regulations.

(2) Subject to subsection (2.1), the disclosure statement must contain

(a) a statement of the nature of the assets, liabilities and financial interests of the member, the member's spouse and minor children, and private corporations controlled by any of them, and

(b) any other information that is prescribed by the regulations to be contained in the disclosure statement.

(2.1) The disclosure statement of a member of the Executive Council who has complied with section 9 (1) (b) by entrusting his or her business to one or more trustees need not contain a statement of the nature of the assets, liabilities and financial interests contained in the trust.

(3) After filing a disclosure statement, the member, and the member's spouse if the spouse is available, must meet with the commissioner to ensure that adequate disclosure has been made and to obtain advice from the commissioner on the member's obligations under this Act, and the commissioner may recommend the manner by which the member will comply with those obligations.

(4) If any asset, liability or financial interest described in the disclosure statement relates to a corporation, the commissioner must ascertain whether any other corporation is an affiliate of the first named corporation, as determined under section 2 (1) to (4) of the *Business Corporations Act*.

(5) If the commissioner determines that there is an affiliate of the first named corporation, he or she must

(a) advise the member of the fact, in writing, and

(b) mention the fact in the public disclosure statement prepared under section 17.

(6) After filing a disclosure statement, the member must continue to disclose any material change in the assets, liabilities and financial interests of the member, the member's spouse and minor children and private corporations controlled by any of them by filing a statement of material change with the commissioner within 30 days of the material change.

(7) In subsection (6), **"material change"** means a material change as defined in the regulations.

Public disclosure statement

17 (1) After meeting with the member, and with the member's spouse if the spouse is available, the commissioner must prepare a public disclosure statement containing all relevant information provided by the member, and by the member's spouse if the spouse met with the commissioner, in respect of the member, the spouse and minor children, except

(a) the municipal address or legal description of land that is primarily for the residential or recreational use of the member or the member's spouse or minor children, and

(b) personal property used for transportation or for household, educational, recreational, social or aesthetic purposes.

(2) The public disclosure statement must contain a statement of any gifts or benefits that have been disclosed to the commissioner under section 7 (3).

(3) The commissioner must, as soon as is practicable, file the public disclosure statement with the Clerk of the Legislative Assembly who must

(a) make the statement available to any person for inspection without charge and during normal business hours, and

(b) provide a copy of the statement on payment of a reasonable copying charge.

Commissioner's opinions and recommendations

18 (1) A member may request, by application in writing, that the commissioner give an opinion or recommendation on any matter respecting the obligations of the member under this Act or under section 25 of the *Constitution Act*.

(2) The commissioner may make such inquiries as the commissioner considers appropriate and provide the member with a written opinion and recommendations.

(3) If the commissioner is of the opinion that a member has or may have a conflict of interest, the commissioner may, in the recommendations, specify the time by which the member must resolve the matter.

(4) The opinion and recommendations of the commissioner are confidential, but may be released by the member or with the consent of the member in writing.

(5) If the commissioner determines that a member has not contravened this Act, that determination is final for all purposes of the Act and any proceeding under the Act, so long as the facts presented by the member to the commissioner under subsection (1) were accurate and complete.

Commissioner's opinion on referred question

19 (1) A member who has reasonable and probable grounds to believe that another member is in contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the compliance of the other member with the provisions of this Act.

(2) A member of the public who has reasonable and probable grounds to believe that there has been a contravention of this Act or of section 25 of the *Constitution Act* may, by application in writing setting out the grounds for the belief and the nature of the contravention alleged, request that the commissioner give an opinion respecting the alleged contravention.

(3) The Executive Council may request that the commissioner give an opinion on any matter respecting the compliance of a member of the Executive Council or a parliamentary secretary with the provisions of this Act or of section 25 of the *Constitution Act*.

(4) The Legislative Assembly may request that the commissioner give an opinion on any matter respecting the compliance of a member with the provisions of this Act or of section 25 of the *Constitution Act*.

Special assignments

20 At the request of the Lieutenant Governor in Council or the Legislative Assembly, the commissioner may undertake special assignments that he or she considers appropriate.

Inquiry

21 (1) On receiving a request under section 19, and on giving the member concerned reasonable notice, the commissioner may conduct an inquiry.

(2) For the purposes of preparing an opinion under section 19 or conducting a special assignment under section 20, the commissioner may order a person to do either or both of the following:

(a) attend, in person or by electronic means, before the commissioner to give evidence on oath or affirmation or in any other manner;

(b) produce for the commissioner a record or thing in the person's possession or control.

(2.1) An order under subsection (2) must be in the form of a summons, served on the person by personal delivery or registered mail to the person's last known address.

(3) If the request for an opinion is made under section 19 (1), the commissioner must report his or her opinion to the Speaker of the Legislative Assembly who must cause the report to be laid before the Legislative Assembly if it is in session or, if not in session, to the Clerk of the Legislative Assembly who must send a copy of it to all members of the Legislative Assembly.

(4) If it appears to the commissioner that the report may adversely affect the member, the commissioner must inform the member of the particulars and give the member the opportunity to make representations, either orally or in writing, at the discretion of the commissioner, before the commissioner finalizes the report.

(5) If the commissioner is of the opinion that the member making the application under section 19 (1) had no reasonable and probable grounds for making it, the commissioner may state that in his or her report, and if he or she does so, the commissioner must report the matter to the Speaker who must lay the report before the Legislative Assembly and the Legislative Assembly may, after considering the matter, hold the member in contempt of the Legislative Assembly.

(6) If the request for an opinion is made under section 19 (3), the commissioner must report his or her opinion to the Secretary of the Executive Council.

Power to enforce summons and punish for contempt

21.1 (1) The commissioner may make an order finding a person to be in contempt, and may impose a fine on or commit the person for contempt, if the person has been served with a summons under section 21 and fails or refuses to do any of the following:

(a) attend before the commissioner;

(b) take an oath or make an affirmation;

(c) answer questions;

(d) produce records or things in the person's possession or control.

(2) The commissioner may call on the assistance of any peace officer to enforce an order made under this section, and, if called on, the peace officer may take any action that is necessary to enforce the order and may use such force as is reasonably required for that purpose.

Penalties

22 (1) If the commissioner finds

(a) after an inquiry under section 21 that a member has contravened section 3, 4, 5, 7, 8, 9 or 10 (1), or

(b) that a member has refused to file a disclosure statement within the time provided by section 16 or that a member has failed to comply with a recommendation of the commissioner under section 16 (3) or 19,

the commissioner may recommend, in a report that is laid before the Legislative Assembly

(c) that the member be reprimanded,

(d) that the member be suspended for a period specified in the report,

(e) that the member be fined an amount not exceeding $5 000, or

(f) that the member's seat be declared vacant until an election is held in the member's electoral district.

(2) The Legislative Assembly must consider the commissioner's report and respond to it as subsection (3) provides

(a) within 30 days after it is laid before the Legislative Assembly, or

(b) within 30 days after the next session begins if the Legislative Assembly is not in session.

(3) The Legislative Assembly may order the imposition of the recommendation of the commissioner under subsection (1) or may reject the recommendation, but the

Legislative Assembly must not further inquire into the contravention or impose a punishment other than the one recommended by the commissioner.

Protection of commissioner

23 No action of any kind lies against the commissioner for anything he or she does under this Act.

Appropriation

24 Money required for the operation of the office of the commissioner may be paid out of the consolidated revenue fund.

Offence Act

25 Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

26 Subject to the approval of the Lieutenant Governor in Council, the commissioner may make regulations prescribing any matter that is contemplated in this Act to be prescribed by regulations.

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BRITISH
COLUMBIA

Office of the
Conflict of Interest Commissioner

BUDGET PROPOSAL

Fiscal Years
2012/13 – 2014/15

Presented to

The Select Standing Committee on Finance and Government Services

Legislative Assembly of British Columbia

November, 2011

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Background Information

The Mandate

The *Members' Conflict of Interest Act* ("the *Act*") came into effect December 21, 1990, and provides a statutory framework for:

- Defining standards of official conduct for Members of the Legislative Assembly;
- Collecting and publicly disclosing the nature of assets, liabilities and financial interests of all 85 Members, their spouses, minor children, and private corporations controlled by any of them;
- Creating consultation mechanisms for the early identification and resolution of potential conflicts of interest; and
- An opinion request process to deal with alleged conflicts of interest.

The Commissioner is an independent Officer of the Legislative Assembly and performs three separate but related roles:

First, as an adviser to Members. MLAs need to know what their obligations are and how to fulfil those obligations.

Second, meeting with each Member at least annually to review the disclosure of the Member's financial interests and the general obligations imposed by the *Act*.

Third, providing opinions in response to requests from MLAs or members of the public respecting compliance or alleged contraventions of the *Act*.

The Vision

- Assist Members with compliance and meaningful disclosure;
- Respond to information and opinion requests by creating an administrative and records system capable of recording, indexing, storing and retrieving information required by the *Act*;
- Inform and educate the public about the procedures contained in the *Act*;
- Creating document storage and information retrieval techniques to inform ongoing communications with both the public and Members.

The Structure

We maintain two small office locations: the main office on Menzies Street as part of the Legislative Precinct; and an unstaffed satellite office in Surrey.

We currently have a staff of four people. The Commissioner's appointment is for 75% of his time. We have one full-time staff member who acts as our Executive Coordinator. Currently, we have two part-time contractors: a legal officer on hourly contract; and a part-time (.6 FTE) assistant coordinator also on contract.

Performance Information and Comparative Statistics

Generally, requests received in our Office fall into three categories:

1. Requests for Information
2. Requests for Advice from Members
3. Requests for Formal Opinions from MLAs or members of the public

Requests for Information

The majority of requests received are for information. The bulk of these requests are from members of the public seeking clarification of our mandate. MLAs and their staff also ask for general information pertaining to a Member's obligations under the *Act*.

As a result of questions asked at your Committee's hearing in November, 2009, we began keeping a formal record of the number of the information requests. From January 1 to November 1, 2011, we received 113 requests for information.

Requests for Advice

One of the Commissioner's primary roles is that of an adviser to Members. Frequent preliminary requests for opinions are received to ensure Members comply with both the letter and the spirit of the *Act*. The advice may simply be oral or, in appropriate situations, the advice will be given in writing.

Requests for advice from Members increased 24% from the year 2010 to November 1, 2011.

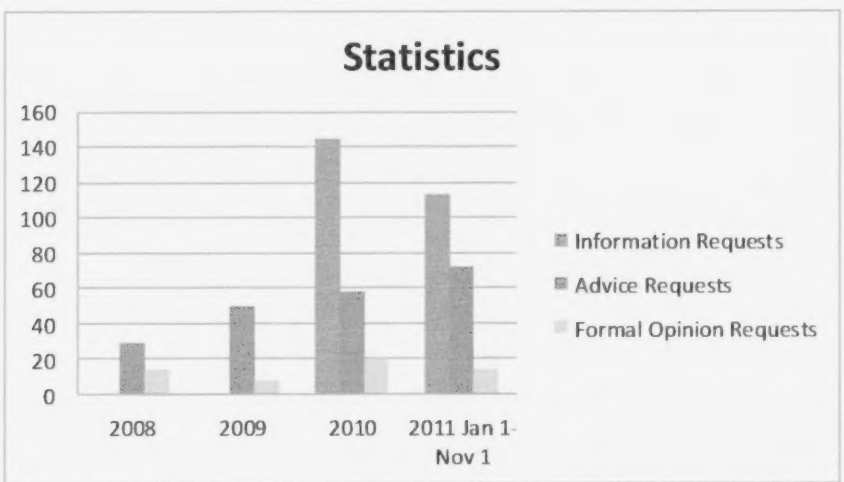
Requests for Formal Opinions or Complaints

The Office receives requests for formal opinions on complaints made by MLAs or by members of the public. Initial screening has confirmed that the majority of requests received from the public are non-jurisdictional. Requests that fall within our mandate are first reviewed to determine whether a formal opinion is warranted. We then gather preliminary information to determine whether there are reasonable grounds for the matter to proceed. If so, the Commissioner proceeds to take sworn evidence from the relevant parties and gives a formal opinion in due course.

Historically, the Office has always kept track of the number and type of requests received for advice and for formal opinions. We now have the capacity to report on average response times, and those statistics are included in our 2010 Annual Report.

The following charts illustrate the number of requests received in the Office, either by telephone, email, fax or regular mail.

TOTAL REQUESTS RECEIVED FOR:	2008	2009	2010	2011 Jan-Nov 1 (10 months)
Information			145	113
Advice	29	49	58	72
Formal Opinions	14	7	20	14
Total	43	56	223	199



Operating Results for the First Seven Months (April 1 – November 1) of 2011/12

As of November 1, 2011, the Ministry of Finance has advised that this Office is currently on budget. Full year forecast for the 2011/12 fiscal year is projected to be within our budget allocation of $480,000.

Information Systems

In July, 2011, our IT support was transferred from the Ministry of Finance to Legislative Assembly Computer Systems, resulting in administrative efficiencies and some cost savings.

Building Occupancy

In January, 2012, our Office will be moving next-door to the First Floor, 421 Menzies Street, Victoria. This location is still conveniently within the Legislative Precinct, but will provide significant additional working office space required for our current staff.

The new space has been acquired and improved at no increase in ongoing occupancy costs – with the cost of the physical move and equipping the office being absorbed through negotiation as well as through savings that have been achieved in operating and equipment costs.

2012/13 Budget

We expect that the Office will be particularly busy in fiscal 2012/13. The *Act* does not have any statutory review provisions and has remained largely unamended since it came into force 20 years ago. It is our expectation that a special committee of the Legislature will soon be constituted to hold hearings and make recommendations with respect to potential amendments to the *Act*. Our Office will certainly be involved in providing information to inform the work of the committee and to provide it with comparative information about the COI regimes in other Canadian jurisdictions. British Columbia is one of only two jurisdictions in Canada that gives the public standing and access to our COI process. No doubt members of the public will take advantage of the opportunity to make suggestions to the committee.

The largest portion of our financial resources is devoted to salaries.

The work we do is labour intensive and depends on the quality of research and information gathering that nurtures our mandate. That work must be supported by strong IT initiatives which the Commissioner will discuss with the Committee at his appearance on November 23, 2011.

While we are expecting that this fiscal period will be very active for this Office, we understand the funding challenges facing your Committee.

Therefore, we want to play our part in responsible financial management and we believe we can deliver our services at the level expected from us without seeking a funding increase beyond the $480,000 previously allocated for fiscal 2012/13. We do, however, issue the usual caveat that if the Office becomes involved in conducting formal and unexpected Inquiries under the *Act*, we reserve the right to approach the Committee with supplementary funding requests.

Respectfully submitted,

Paul. D. K. Fraser, Q.C.
Conflict of Interest Commissioner

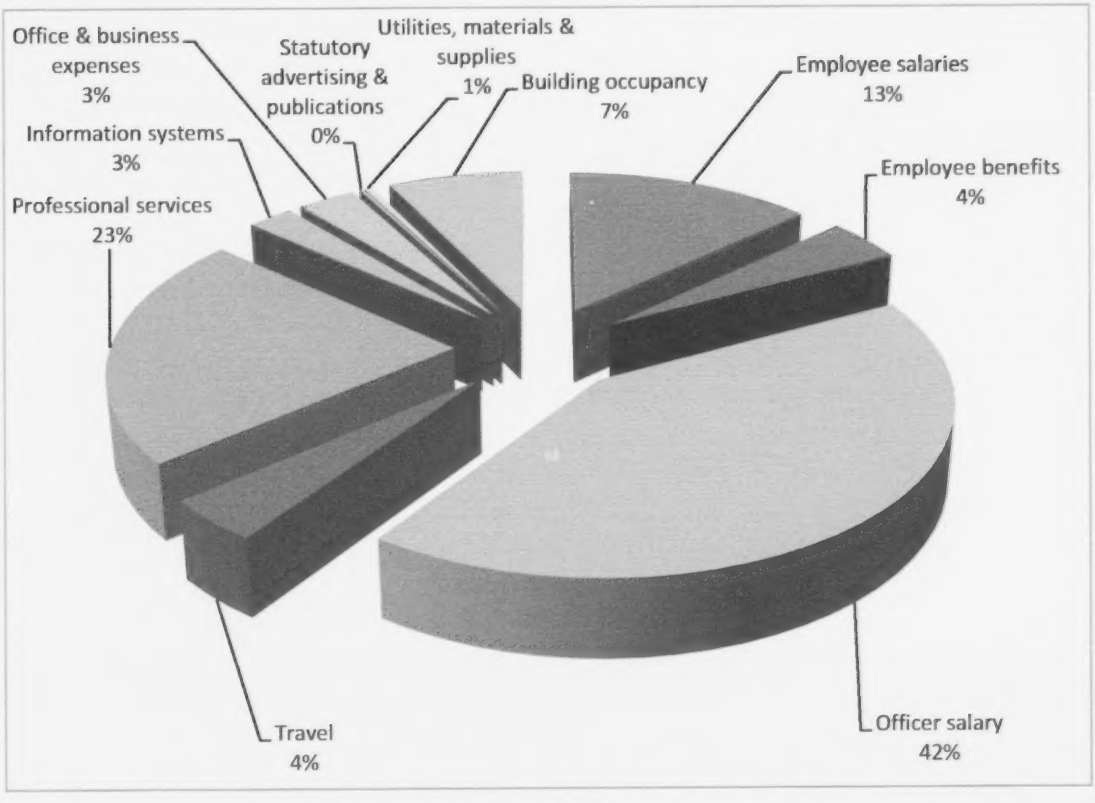
Statement of Operations

	2010/11 Budget $	2010/11 Actual $	2011/12 Budget $
Funding			
Voted appropriation	440,000	440,000	480,000
Other authorizations	0	0	0
Total Funding	440,000	440,000	480,000
Expenses			
Employee salaries	63,000	70,036	93,000
Employee benefits	21,000	21,522	29,000
Officer salary	203,000	149,523	203,000
Total Salaries and Benefits	**287,000**	**241,081**	**325,000**
Travel	22,000	20,261	20,000
Professional services	55,000	60,264	50,000
Information systems - operating	17,000	15,307	17,000
Office and business expenses	14,000	13,556	20,000
Statutory advertising	1,000	352	1,000
Utilities, materials and supplies	1,000	294	1,000
Building occupancy charges	35,000	34,756	35,000
Other expenses	8,000	11,289	11,000
Total Operating Expenses	**153,000**	**156,079**	**155,000**
TOTAL	**440,000**	**397,160**	**480,000**
Funding Surplus		**42,840**	
Estimated savings on Officer salary and benefits while Acting IPC		36,500	

Ongoing Operating Budget by Standard Object (STOB)

		2011/12 Budget $	2012/13 Planned $	2013/14 Planned $	2014/15 Planned $
50	Employee salaries	93,000	64,000	64,000	64,000
52	Employee benefits	29,000	20,000	20,000	20,000
54	Officer salary	203,000	203,000	203,000	203,000
57	Travel	20,000	20,000	20,000	20,000
60	Professional services	50,000	108,000	108,000	108,000
63	Information systems - operating	17,000	12,000	12,000	12,000
65	Office and business expenses	20,000	15,000	15,000	15,000
68	Statutory advertising & publications	1,000	1,000	1,000	1,000
69	Utilities, materials and supplies	1,000	2,000	2,000	2,000
75	Building occupancy charges	35,000	35,000	35,000	35,000
85	Other expenses-IMB support charges	11,000	-	-	-
	Total operating budget	**480,000**	**480,000**	**480,000**	**480,000**

2012/13 Budget by Expenditure Type



Excerpt from

Select Standing Committee on Finance and Government Services'

Annual Review of the Budgets of the

Independent Legislative Offices

December 2011

Office of the Conflict of Interest Commissioner

> *"We've been able in a relatively short period of time to get new premises and make IT improvements that are not going to affect our bottom line."* (Paul Fraser, QC, Conflict of Interest Commissioner for British Columbia)

Background

The Office of the Conflict of Interest Commissioner has a dual purpose: to serve and address the needs of the Members of the Legislative Assembly and Cabinet Ministers by providing an ethical framework to assist in reconciling their private interests and public duties, and to serve and inform the public. The appropriation for the Office is provided under Vote 3 of the annual *Estimates*. Last year, the Finance Committee recommended that the annual operating budget be $480,000 in each of the next three fiscal years.

Budget Proposal Fiscal Years 2012/13-2014/15

On November 23, 2011, the Finance Committee met to review the Office's budget proposal for the next three fiscal years. Representing the Office were Paul Fraser, QC, Conflict of Interest Commissioner and Daphne Thompson, Executive Coordinator.

The Conflict of Interest Commissioner began the presentation by outlining the three broad aspects of the Office's overall mandate. The first is advising Members on their obligations and meeting at least annually to review the disclosure of each Member's financial interests and the general obligations imposed by the *Members' Conflict of Interest Act*. Next, the BC Office is one of only two jurisdictions in Canada that give the public standing and access to the conflict-of-interest process. Finally, the Office provides opinions in response to requests from MLAs or members of the public respecting alleged conflicts of interest.

The Commissioner then reported on the plan to move the main office in January 2012 to more spacious accommodation next door at 421 Menzies Street, Victoria, without adding to building occupancy costs next year. This new location is still conveniently within the legislative precinct.

The Committee was also informed that IT support for the Office was transferred from the Ministry of Finance to Legislative Assembly Computer Systems in July 2011, resulting in administrative efficiencies and some cost savings. For example, no additional funding is required for an IT project that will alleviate much of the administrative overhead involved with forms management. A new web-document library will provide each Member with access to their folder and forms from any web-enabled device.

Turning to next year, the Commissioner informed the Committee that he anticipates a review of the Act by a special committee of the Legislative Assembly will occur, and include submissions from the public and others on potential changes. The Act has remained largely unchanged since it came into force 20 years, as it contains no provision for a statutory review, but both the Premier and Leader of the Opposition are in support of the idea.

The Commissioner reported that for the next three fiscal years, there is no change in the total operating budget. It remains at $480,000, with some minor reallocations on the salary side.

Committee Inquiry

The committee inquiry focused on staffing, the IT project and post-employment obligations.

Staffing level

Members asked for clarification regarding the budget for staffing, including increased costs for professional services. The Commissioner explained that because people are continuing to work on a contract basis (STOB 60) there has been in a reduction in salaries for regular staff (STOB 50).

IT project

The Commissioner was asked about costs for training administrative staff to use the new IT project. He reported that these costs are expected to be modest and insignificant, adding that the new process would be more cost effective than the current "hugely labour-intensive" process for filing confidential disclosure forms. Members also inquired about security risks and were informed that encryption will ensure secure access.

Post-employment obligations

Members inquired about the post-employment obligations of cabinet ministers. In response, the Commissioner referenced the federal guidelines and the post-employment regime used in the United Kingdom, a peer-review-based system that could be adapted for British Columbia.

Conclusions and Recommendations

In today's challenging economic times, the Finance Committee is appreciative of the recent efforts by the Office of the Conflict of Interest Commissioner to find new efficiencies and cost savings and supports the request for a flat-line budget.

The Finance Committee recommends that:

- the annual appropriation for the operating expenses of the Office of the Conflict of Interest Commissioner be $480,000 in each of the next three fiscal years.